

873—4.40(73GA,ch1261) Dispute resolution. The industrial commissioner or the industrial commissioner's designee (hereinafter collectively referred to as the industrial commissioner) shall have all power reasonable and necessary to resolve contested cases filed under Chapter 4 of these rules. This power includes, but is not limited to, the following: the power to resolve matters pursuant to initiation of mandatory dispute resolution proceedings by the industrial commissioner; the power to resolve matters pursuant to a request by the parties; the power to impose sanctions; and the power to require conduct by the parties. However, no issue in a contested case may be finally resolved under this rule without consent of the parties.

An employee of the division of industrial services who has been involved in dispute resolution shall not be a witness in any contested case proceeding under this chapter.

4.40(1) Mandatory proceedings. The industrial commissioner may require that the parties participate in dispute resolution in the following situation:

- a.* The oldest one-fourth of contested cases which are not scheduled for hearing.
- b.* All cases where discovery deadlines have been set pursuant to a prehearing order and the deadlines have passed.
- c.* All cases where the principal dispute is medical benefits.
- d.* All cases where the only dispute is the extent of disability.
- e.* All cases involving liability disputes of alleged workers' compensation insurance carriers and alleged employers pursuant to Iowa Code section 85.21.
- f.* Equitable apportionment of compensation payments pursuant to Iowa Code section 85.43.
- g.* All cases where the industrial commissioner determines that dispute resolution would be in the best interest of the parties.

4.40(2) Voluntary proceedings. The parties may voluntarily agree to submit to dispute resolution.

4.40(3) The parties must comply with the good faith requirements of rule 873—10.1(17A,85,86) before requesting a voluntary proceeding pursuant to subrule 4.40(2).

4.40(4) See 873—subrule 10.1(5) regarding informal dispute resolution.

4.40(5) Rescinded IAB 9/14/94, effective 10/19/94.

This rule is intended to implement 1990 Iowa Acts, chapter 1261, section 3.